



Hampton Beach Area Commission

**Public Hearing, November 29, 2006
Hampton Selectmen's Room, Town Office Bldg.**

In Attendance:

Fred Rice, Chairman – Town of Hampton
Doug DePorter – Vice Chairman, NH Dept. of Transportation
Brian Warburton, Secretary/Treasurer, DRED (Seacoast parks/Rec)
Todd Loiseau – Town of Hampton
John Kane – Hampton Beach Village District
Tom McGuirk – Hampton Beach Village District
Chuck Rage – Hampton Chamber of Commerce
Fran McMahon – Rockingham Planning Commission
Carol Barleon – Office of Energy and Planning

Administrative

Jamie Steffen – Hampton Town Planner
Judy Santarelli – Seacoast Parks and Recreation

Chairman Rice called the meeting to order at 7 pm. After introducing the Commission members, he explained that the purpose of this hearing is to gather public input before making a recommendation to the Planning Board on the redesignation of certain beach zoning districts and the definition of condominium hotels. The intent is to identify neighborhoods with similar characteristics and to zone them accordingly, so that the zoning ordinances are clearer to the public.

Zoning Designations

Mr. Glenn Greenwood of the Rockingham Planning Commission gave a presentation on the proposed zoning districts. The BEACH RESORT (BR) district would extend from the Ashworth Hotel to F St. between Ocean Blvd. and Ashworth Ave, and would be the highest density area, with a proposed maximum occupied height of 85 feet. This proposed zone would have a front setback of 20 feet, which would include a four foot sidewalk and a sixteen foot promenade structure on the first floor. The proposed side setback would be 6 feet along a lettered street, and zero for properties along Ocean blvd and Ashworth Ave. Rear setbacks for properties on lettered streets in this area would be 6 feet, but if the rear setback is not on a right of way, the structure can be placed on the property line.

Stepback elevations would be required. Current impervious coverage standards of 85% would remain. At least 35 % of the gross floor area of the first floor would have to be commercial/retail. Signage requirements would remain unchanged from those for the current Business Seasonal Zone, and lighting standards would mirror the Ashworth Avenue infrastructure improvements.

The BEACH COMMERCIAL (BC) District would include the lots fronting the west side of Ocean Blvd and on both sides of Ashworth Ave. from F St. to the southern intersection of Ashworth and Ocean. The existing requirements of the current Business Seasonal zone would remain in place under the new BEACH COMMERCIAL designation.

Mr. Greenwood explained that the proposed revisions also include specific residential neighborhoods which warrant protection. He defined them as BEACH RESIDENCE-A, which would include the White's Island area and Sun Valley. BEACH RESIDENCE C would include the "donut" area in the BEACH COMMERCIAL ZONE that does not front either Ashworth or Ocean Boulevard. Finally, BEACH RESIDENCE B would include the area west of, but not fronting on, Ashworth Ave. The State Park area, which is currently zoned General, would be designated only as "STATE."

Chairman Rice opened the floor to input from the general public.

Tom Higgins, 31 Ocean Boulevard:

Mr. Higgins asked if the 4 foot sidewalk is to be considered part of the 20 foot setback and whether or not it would be an owner's responsibility to build the sidewalk. Mr. Greenwood responded that it is included, but is not the owner's responsibility. Mr. Higgins asked the group to give consideration to lots that are "trapped" between the lettered streets such that a parking entrance would have to be made right through the promenade. He said that the zoning proposal does not distinguish between onsite and offsite parking, and said it should be definite. He also said that the parking requirements for restaurants appeared stricter than in the other zones. He feels that it is more restrictive in a denser zone and asked the Commission to give this more thought.

Mr. Rice responded by saying that some of these standards may actually be more restrictive because we are attempting to look ahead and establish standards for the future.

Charlie Preston, Glade Path.

Mr. Preston asked what the impact of these re-zoning proposals would be on the sewer capacity. He asked what the capacity is today, and that it be compared with proposed usage, and asked if an ocean outfall would be needed. He asked that requirements of the Environmental Protection Agency be taken into consideration. .

Kevin Close, K St., Hampton.

Mr. Close asked what the elevation requirement would be for subterranean parking. Jamie Steffen replied, 9 feet. Mr. Close answered that he does not think there is 9 ft. of depth at F St. He continued by asking how employee parking would be managed in a particular area. He foresees that the requirements for onsite parking and offsite parking

will be problematic. He also pointed out that the definitions on the 2nd page of the rezoning proposal had not yet been addressed.

Mike Scanlan, 4J St.

Mr. Scanlan said that the question remains as to who is driving this higher building height. He presented a diagram showing the previously proposed FAR 4 area, which was much larger than the Beach Resort area now proposed. He said that in the new Beach Resort area there are approximately 43 properties, but that the zoning would only benefit 5 major property owners. Chairman Rice said that it was the decision of the subcommittee to start with a smaller area and ask for input as to whether it should be enlarged. He repeated that the Commission's intent is to think of what is wanted in the future, without regard to who owns what now.

Mr. Scanlan expressed concern that the 20 ft. setback for the first floor makes it hard for owners of smaller lots. He spoke about the shadows that are cast by a 50 ft. building as well as what would be expected from an 80 ft. building. He suggested that what is good for one part of the beach should be possible for another part. He continued by saying that a height should be chosen that is good for everyone. He pointed out that abutters are fighting a project because of the height variance. He described K St. as a canyon because of the discrepancy in building heights.

Chairman Rice repeated the purpose of this hearing and the goal of the Commission, which is to arrive at a proposal which the Commission feels comfortable recommending to the Planning Board. He said again that there is need to define areas that have similar characteristics, and that the proposal designates an area with higher density where the highest commercial activity already exists. He emphasized the importance of satisfying all constituents and pointed out that this is not an easy task. He repeated the Commission's responsibility of also protecting some areas for lower density. He said that the work of the Commission is not to influence the value of property. That is determined by market forces. He said that if someone wants to build a tall McDonald's, they can. The buildings will be determined by what a developer believes he can do. The unique property on which the Casino sits was acknowledged as pivotal in the future development of the beach area.

Mike Scanlan, 4J St.

Mr. Scanlan reminded those present that there are timeshares in the town as well as condominiums. He cautioned that all must be clear and careful when attempting to define condominiums.

Chuck Rage said that on the streets he knows well, F, G, and I, he can think of only 2 houses that are single family. He then went on to say that if someone can buy 8 lots, why shouldn't they be able to build to 85 ft. He does not feel the lettered streets to I St. are residential and he doesn't see how that line can be drawn.

Kevin Close, K St.

Mr. Close said that it is important to be very specific on the Beach Residential Zones. He said you have single-family homes and multi family homes. He emphasized the need to be careful in this area along the major arteries and with what is done in the heart of the “donut.”

Chairman Rice added that one of the reasons for proposing new zoning is that vacationers don’t want a loud business next to a rooming house on the lettered streets.

Ed McDonald, Epping Ave.

Mr. McDonald asked if there had been any changes in the White’s Island section. Chairman Rice responded that it has been proposed as BEACH RESIDENCE-A and he repeated again that it has its own characteristics. Mr. McDonald asked whether any decisions on setbacks had been made for that area. Chairman Rice responded, no, not yet but perhaps in the distant future.

Fran McMahon shared that the lot size in the town’s RESIDENCE-A is 15,000 sq. ft., while the lot size in the town’s RESIDENCE-B is 10,000 sq. ft. These would likely be different for the beach zones.

Mike Scanlon, 4J St.

Mr. Scanlon asked about having no right of way between lots and brought up the consideration of windowless walls and common halls asking who will determine these. Chairman Rice added that specific design features were a Planning Board matter, but stated that he would not want to see a 4- foot alley, such as the one at the Old Salt, which made the fire worse and prevented firefighters from entering..

With regard to onsite or offsite parking, Chairman Rice expressed the need to provide all incentives possible to create new parking, rather than try to regulate onsite parking for each lot. Mr. Scanlon added that a subterranean parking spot would cost \$20,000.

Brian Warburton joined the meeting at this point and was introduced by Chairman Rice.

Condominium Definitions

Glenn Greenwood directed attendees to the definition of Condominium Hotels in the handout. He said that the most contentious standard is not allowing kitchen facilities in condominium hotel rooms. He pointed out that across the country, more developments incorporate kitchens than not.

Chairman Rice then asked the public for their thoughts and comments. He added that the difficult problem is to create units for people to visit the beach on a short term basis rather than a long term basis. He explained that the current ordinance is inadequate to deal with the projects that are coming before the town.

Tracy Emerich, 207 North Shore Rd.

Mr. Emerich said that there are basically two seasons at Hampton Beach. He feels that the proposal for re-zoning should use only the term “hotel” and eliminate the term “condominium.” He said that the significant drop in rent during the off season almost becomes a form of subsidized housing. He agreed that the issue of kitchens is a stickler but concluded that maybe it’s time to “get over it”. He said that in larger city areas, there are residence hotels and that if someone wants to live in a hotel for a longer period of time, they may. Chairman Rice asked what Mr. Emerich recommended be done about kitchens. He replied that he didn’t think the group could write a guideline that undefines a kitchen. Chairman Rice asked whether writing a restriction could result in creating an unsafe living situation, such as by having hotplates in the rooms. He then asked, “If you allow a kitchen, what is the downside?”

Mr. Emerich said that it might be self deception to think that by not allowing a kitchen, people are actually stopped from cooking.

A scenario was mentioned where a builder could actually set up a home for appliances with piping within walls that would not be visible to a building inspector and then after the final inspection, open up the walls and connect appliances such as a stove, refrigerator, etc.

Mr. Emerich urged the group to focus on what can be controlled. He spoke about standard # 6 that indicates that each hotel must maintain an office so that there is a place to call. He indicated his understanding to be that the office does not have to be in the hotel building, it just has to exist.

Mike Scanlan, 4J St.

Mr. Scanlan brought up the issue of cooperative forms of ownership with a management presence. He feels the need for a definition in those cases.

Kevin Close, K St.

Mr. Close replied that he thinks the standards listed are unenforceable and he suggests the importance of defining what is expected in a hotel and in a cooperative ownership situation. He asked about current heating requirements, sewage, etc. He expressed that one needs to be specific about timeshare ownership. He feels that the definitions need to reflect different building styles that are in place. It was suggested that one could look outside to other resort towns for definitions of these three property types. It was also suggested that bankers and bank appraisers would be a good resource for these definitions.

Mike Scanlan, 4J St.

Mr. Scanlan said that a residence, by law, must be 900 square feet. He said that if the zoning is commercial and there is mixed use, one has 2 years to rebuild after a fire. He also said that 150 sq. ft. is required for a bedroom. He illustrated that a living set up with galley would be about the same width as the meeting room, which is about 20 ft. wide.

Chairman Rice offered the scenario of someone moving into the area who has a job and who needs a place to live while they find more permanent housing. That person would want a small kitchen and be able to go home to a room for the interim period. He stated that, by allowing something reasonable to be done, it makes enforcement of the standards easier.

Mike Scanlan responded that if the space is well defined, 600 sq. ft. should be adequate for 2 people.

John Kane offered his understanding of the current standard which does not allow kitchens. He said that the original intent of discouraging eating in hotels during the summer was to ensure that people would be eating out, frequenting the restaurants and food vendors. He said that retailers must make their money during the 12 weeks of the summer season, and by not allowing all hotel units to have cooking facilities, right or wrong, it was a way to ensure more business for the restaurants. He feels that business people will still be hurt today by allowing hotels and “contels” to have cooking units.

Tom Higgins, 31 Ocean Boulevard

Mr. Higgins said that a hotel room would require 1 parking space, but if you put in a kitchen unit, 2 parking spaces are necessary.

Tom McGuirk said that he feels concentration should be on the parking situation.

Tracy Emerich 27 North Shore Road. Mr. Emerich said that there are impact fees for education when families use rooms for long term residence. He said that with a hotel, impact fees don’t apply. It is only when a room becomes a residential unit that impact fees apply.

Kevin Close, K St. encouraged the group to match the requirements or standards to the type of ownership (i.e. hotel, time share or home ownership). He said that whether it is seasonal or not, every ownership adjusts both in and out of season.

Chairman Rice said that Hampton Beach is no different from any other community and that the duty of the Commission is to make recommendations that provide balance. He said that the Commission tries to look at this in a very neutral respect. He concluded by saying that the Commission must respect zoning common sense.

Kevin Close repeated the need to think carefully through the definitions. He said that the re-zoning proposal is well defined but that the definitions need to be thought through.

Brian Warburton emphasized the need to address the parking situation, describing it as a horror. He stated the need to come together on what the Seacoast is becoming. He said that people are willing to pay big money in order to park their cars. He encouraged a year round, rather than seasonal, outlook for the beach.

Chairman Rice said that the solution to the parking problem is not to try to save the few skimpy places that we have on each of the side streets, but rather to find some combination of public and private involvement to invest money in a large scale parking facility or combination of a variety of these to resolve the problem.

Mike Scanlan, 4J St.

Mr. Scanlan encouraged the group to think of other places where a variety of parking size spaces is offered for compact and subcompact cars. (14 and 16 foot spaces rather than 19 ft).

Chairman Rice then closed the public hearing and returned the discussion to the Commission.

Members discussed the proposed promenade, its use as a walkway, and whether or not it could be used for outdoor dining. That is unlikely, since the promenade will only be 14 feet wide, compared with 25 feet along the Casino.

There followed discussion of trapped lots and their access from Ocean Boulevard. Tom McGuirk asked the members where the standard for parking came from in the re-zoning proposal for the BEACH RESORT area. Mr. Greenwood responded that it resulted from a conversation with the building inspector. Fran McMahon said that his committee had not discussed parking for employees. Chuck Rage voiced that he did not feel parking should have to be on site.

Chairman Rice explained that there are two types of zoning that are being combined. The resort zone can be very dense, very close together and as a result closer to other types of parking. From F. St. down, he continued, it is a different scenario and on site parking may be needed. He concluded that the character of the two areas is different.

Chairman Rice asked the members of the Commission whether or not the parking restriction should be removed from the re-zoning proposal.

The members voted unanimously to remove the restriction.

Chairman Rice said that revising the zoning regulations will not cover all situations but hopefully will lower the number of people who seek variances and that would be helpful.

Jamie Steffen asked about the standard for mixed use and Tom McGuirk asked whether an abutting property would be considered on-site. Mr. McMahon said that the lots could be combined, making that a moot point. Chairman Rice responded that a uniform standard must be set and then allow any contradiction to be considered on a variance.

The minimum size of a dwelling unit was given as 330 sq. ft. Tom McGuirk said that the subcommittee will meet next week to discuss a definition for a dwelling unit.

Chairman Rice asked what the Planning Board is going to put in the warrant article regarding first floor retail along Ocean Boulevard. Since last year's warrant language

was confusing to voters, he suggested that the wording state directly that the first floor of all properties on Ocean Boulevard from Ashworth to N St. must be retail. John Kane indicated that he has difficulty with this because if it is all retail, he feels there will be no parking.

Following discussion on a standard for the amount of retail/commercial depth on the first floor in the proposed BEACH RESORT zone, **all members of the Commission agreed on a depth of 35 feet from the sidewalk. They also agreed that any storage space behind the front retail area would be included in that dimension.**

Chairman Rice mentioned that some property owner might want to use some of the front space of his/her lot for retail and concluded that a variance would need to be obtained for that usage.

Chairman Rice stated that the concerns about sewer capacity are a red herring. In the old system, broken pipes had allowed intrusion of salt water, which ate up a lot of the sewage treatment plant's capacity. The new system has eliminated the intrusion, and there is now enough capacity for future development.

Carol Barleone asked the group if what is needed is just to have someone confirm that the capacity is sufficient for the re-zoning plan. Chairman Rice said that he will check with Public Works Director Hangen to get that confirmation. He also mentioned that talk of an ocean outfall pipe is premature at this point as no one has come into Hampton to talk about it yet.

The discussion then turned to the concern for flood elevation standards for underground parking. Fran McMahon responded that underground parking is not a requirement. There was mention of the difference in elevation from Ocean Blvd to Ashworth Avenue, and that all properties could not have underground parking.

Chairman Rice asked the Commission members their thoughts on the proposed requirement of parking for seasonal employees. **All Commission members were in agreement that this requirement should be removed.**

Chairman Rice asked for the group's thoughts regarding the idea of having the same height standard for the whole length of the beach, as had been brought up during the public hearing. Todd Loiseau expressed that he feels the proposed BEACH RESORT area is too small, and should be expanded to include the entire beach area. Chairman Rice said that the proposed FAR 4 area designation was much larger last year, but that the subcommittee preferred to start small. In view of the public input, he said he would prefer using the same area as in the old FAR 4 proposal, but not the entire beach area. A discussion followed on whether to enlarge the size of the proposed BEACH RESORT designation. Fran McMahon said that his preference is to leave it as the small area that had been initially proposed.

Chairman Rice asked the Commission members to indicate their preference. **6 voted in favor of the smaller area, as initially proposed, for the BEACH RESORT zone.**

Tom McGuirk said that he would like to investigate Todd Loiseau's point to consider the West Side and look south of F St. in the future. He continued that the desire is to define neighborhoods, but that has not yet been done.

Brian Warburton agreed that Todd Loiseau's point is important. He went on to say that there is a lot of commercial property from F St. all the way down the Beach, and that this should be revisited.

Regarding the possibility of shadows being cast on the beach by tall buildings, Chairman Rice used the white board to draw a diagram to show mathematically why an 85 ft. building will not cast a shadow on the beach at 4:00 in the afternoon in mid-August. His calculations, based upon programs available on the internet, showed that a shadow would be some 20 feet from the boardwalk railing at that time. He strongly recommended that no further consideration be given to any concerns about shadows unless they were supported with solid math and trigonometric backup.

Chairman Rice recapped the proposed new beach zoning as follows: BEACH RESIDENCE-A includes the White's Island Area and Sun Valley. BEACH RESIDENCE-B (currently called Residence B) includes the area west of Ashworth Ave. except those lots fronting on Ashworth. BEACH RESIDENCE-C includes the area along the lettered streets in the middle of the "donut" created by lots fronting Ocean Boulevard, Ashworth Ave. and the south side of F St. Both sides of Ashworth Ave. and the west side of Ocean Boulevard is BEACH COMMERCIAL, which is the same as the current Beach Seasonal zoning. BEACH RESORT is the area bounded by Ocean Boulevard and Ashworth Ave from the Ashworth Hotel south to and including F Street.

Chairman Rice stated that these recommendations will be presented to the Planning Board at their December 6th meeting. The results of that meeting will be taken to a Public Hearing on December 20th. He recommended that members of the Hampton Beach Area Commission attend the Public Hearing on December 20th.

He then reminded the group that it is their responsibility to come up with a consensus on matters which require their recommendation, and that once that consensus is reached, it must become the decision of the entire Commission. He discouraged the preparation of so-called "minority reports," which only serve to undermine the overall effort to reach a consensus. Todd Loiseau pointed out that it is difficult when one does not agree with the group's decision, such as his preference that the building height be increased on the entire beach. Chairman Rice agreed, but reminded the members that "majority rule" is what makes a democracy work.

Tom McGuirk expressed that although Todd would like the area to be larger, he feels the group is headed in the right direction by only recommending the smaller BEACH RESORT area at this time. Chairman Rice asked Jamie Steffen to indicate to the

Planning Board that this recommendation represents a majority vote, but that some members feel the zone should be larger.

Brian Warburton asked if the Public Hearing on December 20th would take the place of the December meeting for the Hampton Beach Area Commission. Chairman Rice said that it would, and he announced that the next meeting of the Commission will take place on January 25th.

A discussion followed on the definition of hotels for transient occupancy and condominium hotels.

Carol Barleone stated that the goal is to rent by the day or by the week and allow for rentals over the fall and winter. Tom McGuirk said that there is need to avoid residency in order to avoid burdens on the town due to educational needs. Carol Barleone added that the idea is to help this community continue as a resort area.

Fran McMahon reminded the group that there is an ordinance that preexists this situation. He said that the ordinance is not adequate to address current needs and that it needs revision.

Mr. Greenwood confirmed that a “condominium” is only a form of ownership, and has nothing to do with how the unit is designed, built or occupied. Chairman Rice asked if the word condominium is removed, what then defines permanent residence. Is it the home of record? Fran McMahon answered that someone can enroll their child in school, even if they are not a resident. Chairman Rice then posed the question, “What if kitchens are not restricted, but rather allowed and monitored for health and safety?”

Jamie Steffen pointed out that current regulations require that mixed use facilities have one parking space per dwelling unit, residential only requires 2 spaces per unit, and multi-family requires 2 spaces. Based upon this, he recommended the following standard for hotels: square footage less than 330 sq. ft. requires 1 parking space, from 330 sq. ft. to 700 sq. ft. requires 1-1/2 parking spaces, and a living unit larger than 700 sq. ft. requires 2 parking spaces. **The members agreed that these standards should be recommended to the Planning Board.**

After reviewing and discussing the draft definition page for condominium hotels, it was the concurrence of the members that the term “condominium” and the “Definition,” “Permitted District,” and “Height Requirements” sections be deleted, and that the “standards” include only the following:

- 1. The use of hotel rooms as permanent residences is prohibited.**
- 2. Hotels can be operated as timeshare facilities.**
- 3. Each hotel shall have an office.**

Chairman Rice summarized by saying that these changes regulate the parking requirement, allow for a kitchen, remove the term condominium, and discourage

residence. **There was unanimous agreement that these changes would be submitted as the recommendations of the Commission.**

After very brief summaries from some of the Commission members, the meeting was adjourned shortly after 10 pm.

NOTE: Attachment 1 reflects information provided subsequent to the above meeting to Chairman Rice by Public Works Director John Hangen. This information relates to the capacity of the Hampton Beach Sewer System and the impact that the designation of a higher density "Beach Resort" zone would have on the system.

Respectfully submitted,

Judy Santarelli
Secretary

Attachment A

December 1, 2006

Commission Members,

As requested during our discussion following the public hearing, I spoke to Public Works Director John Hangen today about the capacity of the Hampton Beach sewer system. This was a concern raised by Charlie Preston.

John informed me that the beach sewer system has three major components:

The first component is the newly installed main line and branch components, which are of sufficient size to handle a major increase in development, such as might be considered for the "Beach Resort" zone.

The second component is the Brown Avenue interceptor, which is a 27 inch line installed 30 years ago across the marsh behind the police station. This component is nearing capacity, and would probably require upgrading if a major increase in development were to take place in the Resort zone.

The third component is the pump station, which is also nearing capacity. If the station were large enough, it would allow the sewer pipes themselves to act as a temporary storage for large flows, and then be able to quickly pump large volumes to the plant as needed, in a manner that would even out the flows. The pump station would also need upgrading to handle major development in the Resort zone.

The sewage treatment plant itself runs well, with no problems. It runs at approximately 60% of capacity in the winter, and 70-80% in the summer, based on the highest estimated flows.

It is highly unlikely that designating a "Beach Resort" zone will trigger an immediate surge in development of hotels in that area. It is more likely that such growth would take place much more slowly, over a ten to fifteen year period. The existing sewer capacity will probably be sufficient for much of that time period. Impact fees should be assessed to all new development in that area, so that when the upgrades to both the Brown Ave interceptor and the pump station are required, the cost of upgrading will be borne by the developers of that area. This is not something that needs to be done this year, however. An impact fee schedule can be set up for next year's warrant, just as was done for other development in town.

The bottom line is that the capacity of the beach sewer system is not an impediment to designating a higher density "Beach Resort" zone at this time. After the March balloting, the Commission should begin to look at an impact fee structure, so that recommendations can be made to the Planning Board for the next year's Warrant Articles.

Jamie, please ensure that this info is passed to Glen Greenwood for incorporation into his input to the Planning Board, as necessary. Judy, please make this paper an attachment to the minutes of the Public Hearing. If anyone has questions, please contact me.

Fred Rice
Chairman

